STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

COMMONWEALTH EDISON COMPANY	)	
	)	
Petition for expedited approval of implementation of a market-based alternative tariff, to become effective on or before May 1, 2000, pursuant to Article IX and Section 16-112 of the Public Utilities Act.	)	Docket No. 00-0259

COMMONWEALTH EDISON COMPANY'S VERIFIED RESPONSE TO THE ILLINOIS COMMERCE COMMISSION'S QUESTIONS DATED APRIL 13, 2000

On April 13, 2000, the Commission circulated six questions in the above-captioned docket for a response by April 18, 2000. Commonwealth Edison Company ("ComEd") responds to these questions as set forth below.

Question 1: ComEd representatives recently stated during Commerce Commission Electric Policy Meetings and during legislative forums that the provisions of the Electric Service Customer Choice and Rate Relief Law of 1997 (Customer Choice Law) are working well and that there is robust development of retail competition in the ComEd service territory. How are these statements reconciled by ComEd with the filing of this Petition in which ComEd requests a substantial change, on a very expedited basis, in the market value determination?

Response: ComEd has stated, as have others, that competitive choice of electric supply in ComEd's service area is off to a strong start and that ComEd's delivery services tariffs and implementation plan are working well. ComEd has also acknowledged that further improvements contemplated by the Customer Choice Law are required if this marketplace development is to continue. Others have identified similar challenges, as well. Among these challenges is the need to implement market-based mechanisms for the determination of the market value of power and energy.

Attached is ComEd's handout from the March 21, 2000 Electric Policy Committee meeting. Pages 7-9 specifically address further improvements necessary for marketplace development and point out that "Efforts to move to a market-index based alternative to the NFF must be quick and aggressive."

Also attached is ComEd's handout from Chairman Mathias' January 13, 2000 Roundtable discussion. Pages 6 - 8 illuminate the challenges facing the marketplace today which arise from the NFF market values. The NFF prices available today, through their interaction with the PPO tariffs and the PPO assignment options, inhibit full competition in both retail services and wholesale supply.

Competitive markets are often said to "turn on a dime." That is, conditions can change swiftly. Markets in Illinois have only been open a little more than 6 months, so indications of actual behavior of suppliers regarding summer supply decisions turned from theory to reality only recently as well. As ComEd began to evaluate this evidence, it understood that "turning on a dime" in the regulated arena to address energy concerns might be difficult. For this reason, ComEd's message on January 13 was a critical early warning which was echoed by other participants in that day's workshop. The subsequent Staff-sponsored workshops earlier this Spring were an important vehicle for building consensus as to an alternative approach, and ComEd's proposal was developed through those workshops. The Commission heard the call for ongoing improvements again on March 21.

One cannot drive a car only by looking through the rearview mirror. The road ahead may be significantly different than the path just traveled. So too, strong marketplace development up until now does not mean that momentum will continue without continued action. With respect to the effects of the existing NFF market value, the bumps in the road ahead have been identified and approval of the market index methodology will help both customers and suppliers to steer around them.

The attachments referenced in this answer are included at the end of the narrative responses to the questions asked.

Question 2: The ComEd Petition states that the expeditious approval of this Petition is in the public interest because it will promote the ongoing transition to a fully competitive retail market by providing additional opportunities for savings to customers. (Emphasis added.) Please explain.

Response: Savings to customers under ComEd's proposal accrue in several ways.

First, expeditious approval of ComEd's petition, so that the proposed market index methodology can be used this summer, will result in customers being able to avail themselves of CTC's which are lower than those which would otherwise be effective under the NFF version of the tariffs for the remainder of this year. This can result in additional opportunities for savings. The following chart illustrates the number of customers in the over 3 MW class who would experience reduced CTCs this summer if the new tariffs were implemented.

TC Ranges (¢/kWh)	Number of 3 MW Customers with a CTC based upon NFF Market Values	Number of 3 MW Customers with a CTC based upon PPO-MI, Applicable Period A Market Values
Equal to 0	4	20
0 to 1	32	176
1 to 2	155	28
2 to 3	30	1
> 3	4	0
Total	225	225

The shift of the distribution towards lower CTC's is clearly apparent. Even those customers who, for whatever reason, do not see CTC savings this summer will get more accurate price signals -- signals that will promote the efficient use of electricity, particularly during the peak summer months.

ComEd recognizes that some customers may have entered into a commercial relationship with a RES or selected the PPO based on the NFF numbers. ComEd is proposing a transition for these customers which would, for a limited time, allow them to select either the Market Index or the NFF version of PPO prices and CTC's. Depending on load use profile and base rate level, customers may find one or the other more attractive and will be allowed to choose between those options.

Finally, customers may also achieve savings because ComEd's proposal helps promote development of an efficient and effective competitive market by implementing a more accurate method of determining seasonal market values. Customer savings are likely to be increased when the competitive market operates efficiently and effectively, and is not artificially subsidized.

In sum, although it would be speculative to suggest that market values based on market indices rather than the NFF process will always result in lower CTCs, the fact is that ComEd's proposal provides for market values that are more representative of market prices. Thus approval would present more supply options to RES's and their customers, and provide other benefits such as price transparency and greater opportunities for risk management, in a manner not achievable under the NFF process. This is likely why every certificated and registered RES that is active in ComEd's service area either supports or does not oppose the methodology proposed.[1]

[1] ComEd notes that Enron Energy Services, which filed a procedural objection but no substantive objection to the proposal, has not chosen to register with ComEd to provide service as an ARES within ComEd's service territory and is not taking service under Rate RESS.

Question 3: *Assuming that the summer market value reflected in ComEd's current tariffs is too low and therefore that the current transition charge is too high, and further assuming that ComEd's proposal in this proceeding is not approved, indicate how, if at all, ComEd will propose that its transition charge be changed?*

Response: ComEd is not proposing any modification to its transition charges, which are set on an annualized basis, other than the proposals made in this proceeding. The assertion that the "current transition charge is too high" is not correct. It fails to take into account the fact that the non-summer market values (eight months) were too high compared to the market which caused transition charges lower than they might otherwise have been throughout this period. RESs in competition with ComEd have benefited from this discrepancy in the nonsummer months, and absent Rider PPO (MI) would avoid the costs associated with the discrepancy in the summer months by using the PPO assignment option. Accordingly, any adjustment to the transition charge of the type implied in the question would improperly impose additional costs on ComEd and deny it the recoveries that the General Assembly authorized.

Question 4: Due to the vagaries of the retail electric market and other considerations, what are the benefits and/or detriments to ComEd recommending to the Commission that this tariff be effective for a defined time period rather than for an indefinite time period. And what would be the appropriate defined time period, if any.

Response: Placing the tariff in effect for only a limited period of time has several significant disadvantages. First, it would encourage gaming by suppliers or other parties with respect to the expiration of the tariffs, given the pronounced market seasonality. It also presupposes that other alternatives will be available at that time, with no a priori knowledge of such availability.

Second, it would inhibit, not promote, further market development. Virtually all parties agree that ComEd's proposal is superior to the NFF process. The evidence shows that it is. RESs and utilities alike will wish to plan for future development based upon a real market-based price. There is no reason to risk an "automatic" return to the NFF.

Finally, an automatic sunset provision is unnecessary. ComEd has committed to (i) file a report with the Commission at the end of the year evaluating the effect of implementation of tariffs incorporating the alternative market value calculation methodology, (ii) work with the Commission and interested parties, and (iii) improve this methodology if needed in the future.

For these reasons, ComEd would not support the option of placing the tariff in effect for a defined time period. ComEd endorses on-going dialogue as markets continue to develop as the most efficient and least disruptive course for proceeding.

Question 5: Indicate whether the attorney(s) representing ComEd in this proceeding are also representing Unicom Energy, Inc. in this or any other Commission proceeding. Also, indicate if any other attorney(s) representing a utility in this proceeding are also representing a retail electric supplier (RES) affiliated with that utility in this or any other Commission proceeding; or, if representing a RES in this proceeding, are any such attorney(s) also representing a utility affiliated with that RES in this or any other Commission proceeding.

Response: The attorneys appearing for ComEd in this proceeding are Sarah J. Read, D. Cameron Findlay, and Courtney A. Rosen of Sidley & Austin, and E. Glenn Rippie of ComEd. These attorneys are not counsel of record for Unicom Energy, Inc. ("UE") in this proceeding. UE is instead represented by Daniel McDevitt of Gardner, Carton & Douglas. Mr. McDevitt formerly represented ComEd in Commission proceedings when he was a member of the ComEd Law Department, but does not do so now.

The attorneys representing ComEd in this proceeding have not appeared as counsel for UE in any other formal Commission proceeding, whether related or unrelated to this one. Ms. Read represented all Unicom Corp. entities (including UE) during the workshops that preceded the commencement of this proceeding. And, in-house attorneys, such as Mr. Rippie, provide legal advice to all Unicom entities. These representations are proper, as is further discussed below.

First, it is entirely proper for the same attorney to represent two or more different subsidiaries of the same corporation, because a corporation is presumed to have unitary interests that can be adequately represented by the same counsel. <u>See</u> Ill. Rules of Prof. Conduct Rules 1.13(e). Here, of course, UE fully supports ComEd's proposal, so ComEd's and UE's interests in this proceeding are substantially aligned.

Second, even if Unicom and ComEd were not members of the same corporate family, it is entirely proper for two parties with similar interests in the same proceeding to be represented by the same counsel, so long as the representation of one party is not "directly adverse" to representation of the other party, and the joint representation does not "materially limit" the lawyer's ability to zealously represent either party. <u>See</u>, <u>e.g.</u>, Ill. Rules of Prof. Conduct Rules 1.7(a)-(b). Given that UE supports ComEd's proposal, there can be no argument that the two parties are taking adverse positions or that representing one precludes representing the other.

Finally, in all events, even if there were a potential conflict of interest in one attorney representing two parties – and there is no such conflict here – clients are fully entitled to consent to joint representation. <u>See</u> Ill. Rules of Prof. Conduct Rules 1.7(a)(2), 1.7(b)(2). ComEd and UE were fully aware of, and approved of, Ms. Read's representation of both entities during the workshops.

Question 6: The proposed tariffs contained in the Petition are applicable only to ComEd. Given the current status of competition and choice in Illinois law, how, if at all, would the approval of this proposal affect the adoption of market index based tariffs to determine market value by other electric utilities in Illinois as well as the development of retail competition in service territories in Illinois other than the ComEd service territory?

Response: ComEd cannot comment on the plans of other utilities to file market index tariffs. However, approval of ComEd's proposal would provide useful experience and data that the Commission and other parties can use in developing and reviewing such proposals.

Respectfully submitted,

COMMONWEALTH EDISON COMPANY

By: Courtney Rosen
One of the Attorneys for
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Dated: April 18, 2000

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Comments of Commonwealth Edison Company

THE STATUS OF RETAIL ELECTRIC COMPETITION IN ILLINOIS

Presented to the

Illinois Commerce Commission

March 21, 2000

Electric Policy Committee

Arlene A. Juracek

Vice President, Access Implementation

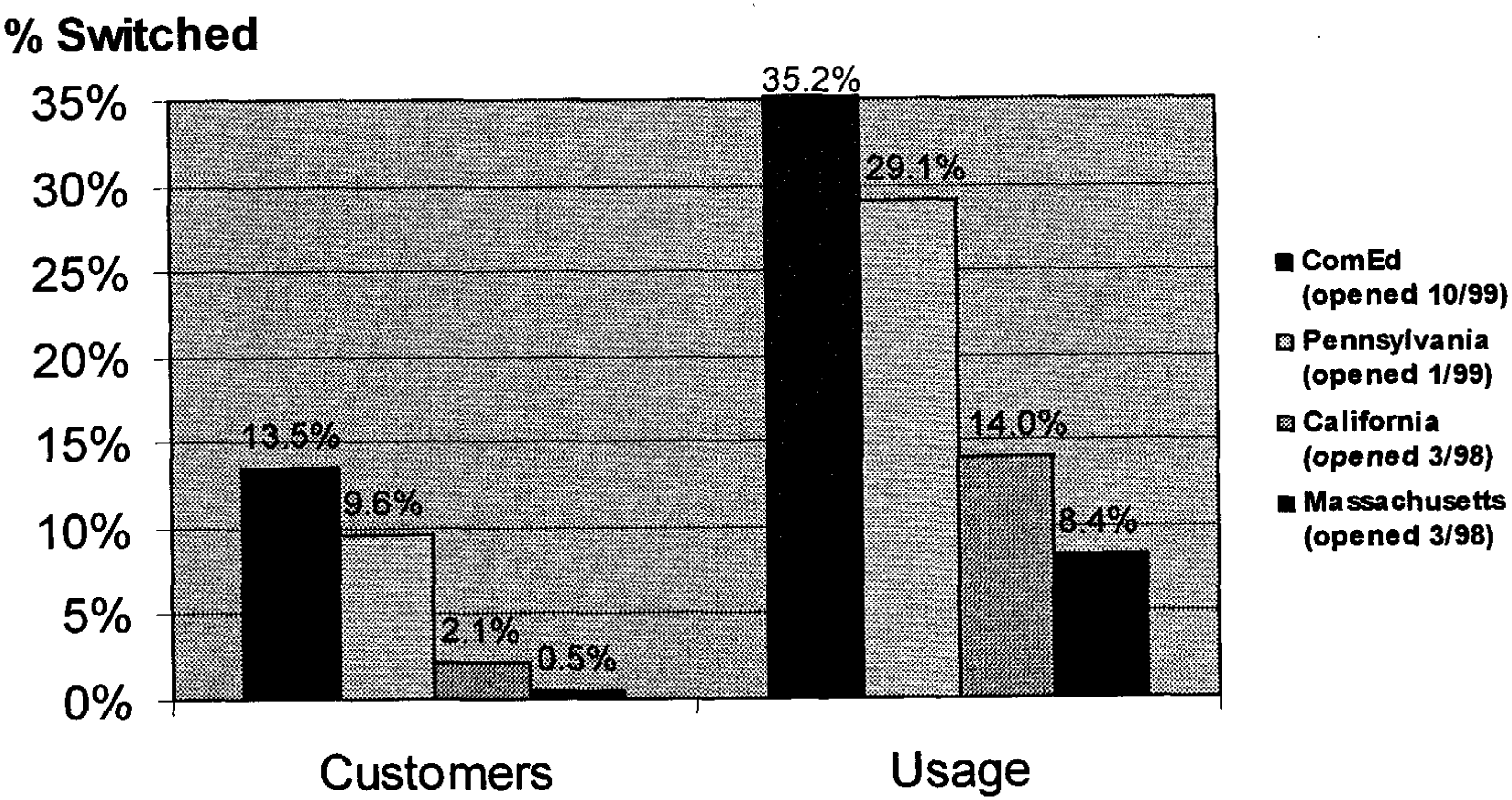
The Transition to Competition in Illinois - The Law is Working

- The Act envisions a balanced transition approach to a competitive marketplace in Illinois. It creates an environment which will allow the voluntary creation of institutions and mechanisms which meet the mutual business needs of all market participants, without forcing any one set of stakeholders to absorb all the risk.
- Robust competitive marketplace development has occurred in ComEd's service area, assisted by ComEd's commitment to make open access work in a fair, unbiased manner.
- To ensure that competition continues to evolve, we must jointly confront a number of challenges in moving forward.
- In doing so, we must not lose sight of the Law's view that customer choice should determine the manner and pace at which competition for services will develop. Customers must have confidence in the marketplace and their voluntary participation in it.

Competitive Indicators in the ComEd Service Area

- Eight suppliers are certified and registered in northern Illinois, and are actively providing customers with alternatives to bundled and PPO service. Several others are participating in a small way through PPO assignment.
- More than 5,850 customers, representing more than 11,300 million kWhrs and 2350 MW have elected market-based supply.
- Switching rates exceed those of other, more mature retail markets.
- New generation supply is emerging: more than 1,146 MW installed in Illinois in 1999 (850 MW in ComEd). Several thousand MW more under development.
- More than 75 marketers and traders are participating in the Illinois wholesale electric marketplace.
- Utility generation plant divestitures are being made to competitive market participants.

Percent of Eligible Customers and Load Switched
Data Available as of 2/29/00



(Data from PUCs, PaOCA website, XENERGY, and ComEd)

What Has Assisted This Success?

- ComEd's focus on critical path tasks and a commitment to standardized practices in key areas reached through consensus and a mutual sharing of marketplace responsibilities.

- Dedicated full-time retail employees united under the ComEd PowerPath team banner.
  - Lottery Team
  - Electric Supplier Services Department
  - Load Profiling and Customer Information Team
  - Multi-media information access: phone, internet, fax, EDI, in-person
  - Integrated Distribution Company focus
  - Voluntary utility action, e.g., ComEd moving up the access date for all manufacturing customers.

What Has Assisted This Success? (Cont'd)

- ComEd's recognition that retail success is dependent on underlying wholesale marketplace and open transmission access.
  - Innovative FERC-approved energy imbalance tariff
  - Competitively-priced load-following service for large industrial customers
  - Refunctionalized transmission rates
  - Driving force behind MISO, ITC and automated trading markets (APX)

- ComEd has put its money where its mouth is to ensure a fair, equitable and dynamic beginning to competitive retail electric choice.

Further Improvements Are Required

- Efforts to move to a market-index based alternative to the NFF must be quick and aggressive.
  - The NFF was designed to be a second-best fallback to an index-based approach.
  - Accurate market values for freed-up power and energy are best determined by the markets, not through administrative determination.
  - Confusing rhetoric about "retail" and "wholesale" products should not lead to supplier subsidies which the legislature never intended.
  - RES's can maximize profitability through supply portfolio and customer portfolio management and pricing strategy.
  - Both the NFF and index-based approaches result in a price for a "shaped" supply portfolio or product. The index approach does a far superior job of capturing all the commodity portfolio costs based on the granularity of its underlying data and its more contemporaneous market "snapshots"

Further Improvements Are Required (Cont'd)

- Distributed generation and independent power production must be encouraged.
- Neither northern Illinois, nor the state as a whole, can succeed as competitive islands. The ICC can encourage and actively support the efforts of those who recognize and adopt this view.
- All suppliers have a responsibility to work for the efficient development of the marketplace.

Long-Term Principles to Guide the Future

- The utility is not the insurer of the marketplace. It is entitled to recover its own costs and cover its risks. It cannot be forced to assume business risks of others.
- All stakeholders must be considered. Utilities did not ask for PPO or for bundled rate responsibility for small customers - customers did. These are transitional mechanisms designed to benefit customers.
- Where services can be appropriately declared competitive they ought to be.
- The further development of competition will evolve from the creativity of marketers in selling their products and services to the customer. The PPO is an inflexible commodity-type offer. The packages and services offered by RES's are likely to continue to attract more customers than the PPO.
- Workshop consensus as opposed to litigation has proven to be the more productive path to follow.

The Act provides for a balanced transition, not pre-determined winners and losers! It is an enabler, not a drag!

Continuing to Develop Electric Competition in Illinois

Commonwealth Edison

January 13, 2000

INTRODUCTION

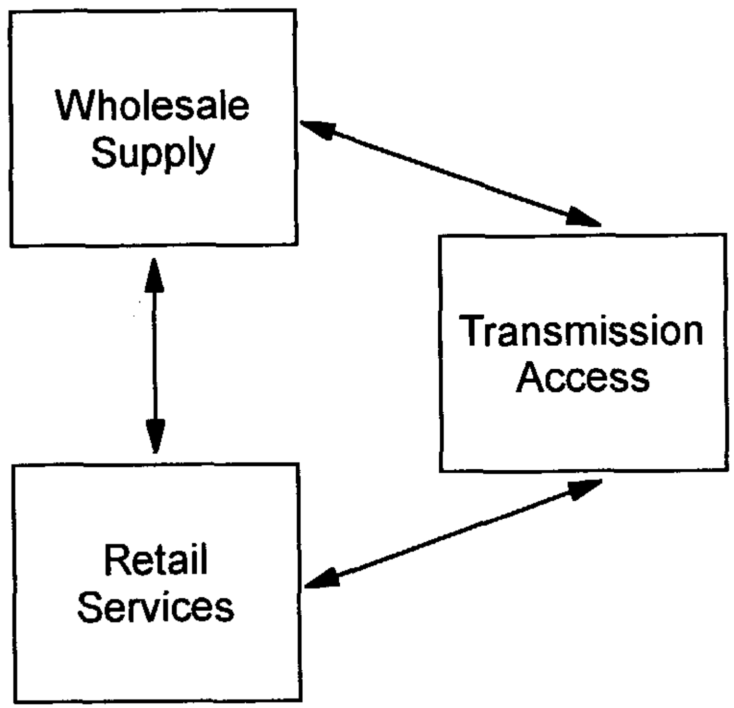
- ComEd fully supports competition in the electric industry and there are a number of signals which indicate that robust competition is beginning to develop in Illinois as a result of restructuring legislation

- To ensure that competition continues to evolve at a rapid pace, we must jointly confront a number of challenges in moving forward.

COMPETITIVE INDICATORS **Overview**

- ComEd believes that robust electric competition is part of a natural industry evolution and we are in full support of this evolution

- Key indicators in three inter-related areas suggest that significant progress toward competition has already been made:



COMPETITIVE INDICATORS — Wholesale Supply

- In the area of wholesale supply, several indicators suggest an increase in both the number of competitive players and the volume of competitive transactions:

  - ComEd's sale of 9,287 MW of generating capacity reducing its share of total Illinois capacity from 60% to 31%
  - About 10,000 MW of announcements to build new generating capacity in Illinois since the passing of the restructuring law
  - A total of over 20 different owners of existing and new generating capacity in Illinois (including new project announcements)
  - Over 75 marketers and traders participating in the Illinois wholesale electric marketplace
  - Approximately 500,000 MWH of wholesale supply sold to entities serving unbundled customer needs in 1999.

COMPETITIVE INDICATORS — Retail Services

- On the retail services side, numerous entities are selling a range of competitive products to retail customers:
  - 54% of ComEd's non-residential customer sales currently eligible for choice increasing to 100% by year end 2000
  - 29% of eligible customer sales has elected to switch off of ComEd's bundled rate
  - 8 retail electric providers participating in the ComEd retail market
  - A broad range of services (including facility maintenance, energy management, gas, and telephone) packaged with electricity to meet customer needs.

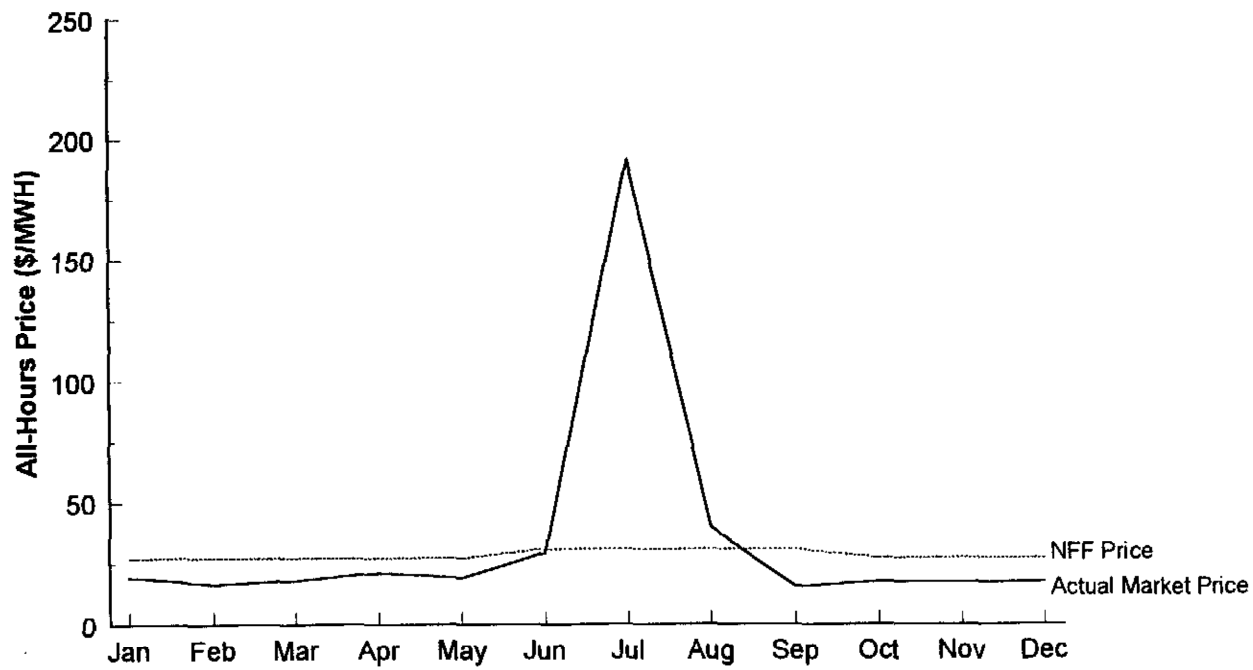
COMPETITIVE INDICATORS — Transmission Access

- A final area that promotes broad-based wholesale and retail competition is open transmission access – ComEd has recently made numerous strides in this area:

  - Market-based energy imbalance charge
  - Competitively priced load-following service for large industrial customers
  - Refunctionalized transmission rates
  - Independent System Operator
  - Independent Transmission Company.

CHALLENGES MOVING FORWARD

- While the progress to date is encouraging, there are several challenges in moving forward
- The NFF Process does not reflect market prices.
- Specifically, the 1999 NFF process produced prices that are too high during the non-summer months and too low during the summer months:



CHALLENGES MOVING FORWARD

- The NFF mechanism is artificial and the timing of the process is not conducive to marketplace needs.
- One of the primary near-term challenges is resultant impact on PPO participation:
  - Customers elect service from ARES in the opening non-summer months of competition
  - They switch to the PPO at the beginning of the summer
  - When possible during the non-summer months, customers return to the ARES
- These incentives inhibit true competition in both retail services and wholesale supply as retail customers only temporarily participate in the competitive market.

CHALLENGES MOVING FORWARD Market Alternative

- Therefore, the key to eliminating the PPO-pricing incentive is developing a market-based alternative to the NFF process and not another change to the legislation.
- Last year, ComEd proposed such an alternative and we continue to be open and committed to the development of an acceptable methodology
- We believe that quickly and aggressively confronting this PPO/NFF challenge is critical to the continued development of a competitive marketplace in Illinois.

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

VERIFICATION

My name is Arlene A. Juracek. I hold the position of Vice President, Access Implementation at Commonwealth Edison Company. I have reviewed Commonwealth Edison Company's Response to the Illinois Commerce Commission's Questions Dated April 13, 2000. I am familiar with the facts stated therein, and the factual statements contained therein are true and correct to the best of my knowledge and belief.

Arlene A. Juracek

Arlene A. Juracek
Vice President, Access Implementation
Commonwealth Edison Company

SUBSCRIBED AND SWORN
before me this 18th day
of April, 2000.

Janice Patton

NOTARY PUBLIC

"OFFICIAL SEAL"
JANICE E. PATTON
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES 1/16/2003